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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION X  
1200 Sixth Avenue  
Seattle, Washington 98101

In the Matter of:

ENVIRONMENTAL PROTECTION AGENCY,

Complainant,

v.

PACIFIC WOOD TREATING CORPORATION,  
EPA ID No. WAD009036906,

Respondent.

No. 1085-09-26-3008P

AFFIDAVIT OF  
ERIC EGBERS



Eric Egbers, having been duly sworn, does depose and say:

1. I am currently employed as a Hazardous Waste Specialist with the firm of Hart-Crowser & Associates, Inc. This affidavit is based on my personal knowledge of the matters discussed herein.

2. From February, 1976 until February, 1986, I was employed by the State of Washington Department of Ecology ("DOE"). From February, 1981, until I left DOE, I was an Environmental Quality Inspector. In this capacity, I was responsible for implementing the Federal hazardous waste regulations, 40 CFR Parts 260-265 and 270, and the State of Washington Dangerous Waste regulations, Chapter 173-303 WAC. My primary responsibilities included the inspection of notified generators, transporters and TSD (treat-

1 ment, storage and disposal) facilities throughout the 12-county  
2 Southwest Regional office jurisdiction. I conducted onsite in-  
3 spections, reviewed applicable documentation for adequacy and took  
4 appropriate enforcement action against those who were found to be  
5 not in compliance with applicable statutes and regulations.

6 One of the industries under my review was Pacific Wood Treat-  
7 ing ("PWT"), Ridgefield, Washington, and their offsite disposal  
8 facility, known as Ridgefield Brick and Tile (RBT).

9 3. PWT installed a boiler at the Ridgefield Plant which was  
10 designed to burn plant wastes as fuel. The PWT boiler burned var-  
11 ious plant wastes, including a minimal amount of sludge from the  
12 treatment of wood preserving waste-water. This sludge had been  
13 listed by EPA in 1981 as a hazardous waste, specifically K001.  
14 The boiler had been designed during the energy crisis of the mid-  
15 1970's to utilize plant wastes as a source of fuel. According to  
16 PWT personnel, EPA had earlier provided a grant to study ways of  
17 treating the various wastes generated in the wood preserving in-  
18 dustry. I was informed by PWT that EPA later conducted two re-  
19 search projects at the Ridgefield Plant on the methods of dispos-  
20 ing of wood treating wastes. At the time the boiler plant was  
21 designed and put in operation, the wood preserving sludge had not  
22 been identified as a hazardous waste.

23 4. On January 28, 1983, I attended a meeting at the PWT  
24 Ridgefield Plant. This meeting was also attended by Bob Stamnes  
25 of EPA Region 10, W. L. O'Connell of Battelle Columbus Labs and  
26 representatives of PWT, including its General Manager, Mark Moot-

1 hart. Battelle was under contract to EPA with regard to permitt-  
2 ing incineration devices such as the PWT boiler. The purpose of  
3 the January 28th meeting was to discuss the filing of a RCRA "Part  
4 B" permit application for the Ridgefield Plant. During the course  
5 of the meeting, there was a discussion of disposal of ash gene-  
6 rated in the boiler plant. PWT advised the group the ash was be-  
7 ing landfilled at an abandoned brick manufacturing facility near  
8 Ridgefield, known as Ridgefield Brick and Tile ("the RBT site").  
9 In my opinion, The PWT representatives believed all present were  
10 aware of this disposal practice due to the fact that they had in-  
11 cluded "land disposal" within their Part A application for the  
12 Ridgefield Plant. Two problems became evident. First, the code  
13 for landfill disposal, D80, had been incorrectly presented as D08  
14 on the permit application, lending a note of confusion. Second,  
15 PWT could not apply for an offsite facility within their plant  
16 site application. A separate application must be submitted.  
17 Also, PWT did not own the RBT site, although they could have been  
18 considered the operator.

19 5. Subsequent to the January 28th meeting, I had a number of  
20 conversations with Region 10 personnel, who advised me they con-  
21 sidered offsite disposal of PWT boiler ash to be a violation of  
22 RCRA and that enforcement action was appropriate. At this time,  
23 the State of Washington had not been authorized by EPA to carry  
24 out its own hazardous waste program. Thus, PWT was subject to  
25 dual enforcement by both EPA and the State.  
26

1           6. While discussions between DOE and EPA regarding what to  
2 do about the RBT site were ongoing, EPA issued a "Notice of Viola-  
3 tion and Warning" to PWT and Elmer Muffet, owner of the RBT site,  
4 on April 21, 1983. However, DOE and EPA both believed the matter  
5 should be handled by the State. Thus, Region 10 agreed to defer  
6 the matter to the DOE, if DOE would take prompt enforcement action  
7 and keep EPA fully involved.

8           7. I and other DOE representatives were in regular contact  
9 with PWT personnel throughout this period. During negotiations  
10 between PWT and the agencies, the company expressed its willing-  
11 ness to close the RBT site in a cost-effective and expeditious  
12 manner.

13           8. On April 28, 1983, I attended a meeting at the DOE of-  
14 fices in Olympia to discuss the RBT site. Region 10 was repre-  
15 sented at this meeting by Bob Stamnes and Michael Brown. Several  
16 representatives of PWT were also present. At this meeting, PWT  
17 was directed to prepare closure and post-closure plans for the RBT  
18 site, which were to include three options for closure. PWT was  
19 also directed to file a RCRA "Part A" application for the RBT  
20 site.

21           9. By June 7, 1983, the consulting firm of Sweet, Edwards &  
22 Associates had prepared a preliminary ground water investigation  
23 for PWT, preparatory to the development of closure and post-clo-  
24 sure plans, which would be based on this investigation.

25           10. On June 21, 1983, pursuant to the agreement between DOE  
26 and EPA, DOE issued a "Notice of Penalty Incurred and Due No. DE

1 83-284" ("Notice of Penalty"), which essentially confirmed what  
2 PWT had previously been directed to do and assessed a penalty of  
3 \$20,000 for failing to apply for a permit for the RBT site.

4 11. On July 6, 1983, I attended a meeting at the RBT site  
5 along with Randy Sweet of Sweet, Edwards & Associates, Dave Myers  
6 of Battelle Labs, Richland and representatives of PWT. Dave Myers  
7 represented EPA. The purpose of this meeting was to discuss the  
8 various options for closure of the RBT site. Mr. Sweet outlined  
9 the geohydrologic setting and hearing requirements were briefly  
10 discussed. I told the PWT representatives I would get back to the  
11 company with regard to public involvement.

12 12. By July 15th, PWT had submitted draft closure and post-  
13 closure plans for the RBT site to DOE and EPA. Both DOE and EPA  
14 provided written comments on the plans. EPA provided their com-  
15 ments to me, wherein I combined their comments with mine and sub-  
16 mitted them to the company and EPA in early August. On August 18,  
17 1983, another meeting was held at DOE offices in Olympia, which I  
18 attended. Michael Brown of Region 10 was present. PWT personnel  
19 were also present, as well as Randy Sweet and Pat Wicks. Mr.  
20 Wicks was the consultant who had prepared the draft closure and  
21 post-closure plans. At this meeting, agreement was reached on  
22 changes as outlined in my letter, which would be addressed in an  
23 addendum to the plan.

24 13. Another subject discussed at the July 18th meeting was  
25 the status of the RBT site. It was apparent from statements made  
26 by EPA personnel that the agency would not accept that the RBT

1 site had achieved interim status; and the facility was considered  
2 an illegal disposal site. Although PWT had been required to sub-  
3 mit a Part A application for the site, per the April 28, 1983  
4 meeting, DOE did not believe issuance of a permit was appropriate.  
5 Rather, I felt the facility should be closed within the context of  
6 an enforcement action so as to expedite the process.

7 14. Because of the approach DOE took to closure of the faci-  
8 lity, I concluded in consultation with my supervisor and peers, it  
9 was not necessary to adhere strictly to the Part 265 interim sta-  
10 tus standards with respect to closure, post-closure and ground  
11 water monitoring, however, interim status standards were refer-  
12 enced in the enforcement action. Again, this conclusion was dis-  
13 cussed with EPA; and they agreed in their written comments on the  
14 draft closure plan that the Part 265 regulations should be used as  
15 a guide.

16 15. One of the principal concerns with closure of the RBT  
17 site (as with any hazardous waste land disposal facility) was  
18 ground water protection. The closure plan developed by PWT out-  
19 lined three options, one of which utilized the RBT site as the  
20 final repository for the waste in question. The plan called for  
21 placement of a compacted soil/bentonite clay barrier on the floor  
22 of the pit, to inhibit downward migration of leachate from the  
23 cell, and a compacted soil cap on the waste, to inhibit downward  
24 migration of storm water. A leachate control toe drain was in-  
25 stalled in the bottom of the cell, to facilitate monitoring and  
26 direct any leachate to a collection box. Two lysimeters were in-

1 stalled downgradient from the cell, to monitor unsaturated cond-  
2 itions. Although PWT's ground water monitoring plan was not in  
3 strict accord with the Part 265 requirements, it was quite inno-  
4 vative; and DOE, with EPA's concurrence, felt it adequately ad-  
5 dressed the situation. We were satisfied it would afford early  
6 detection of a problem emanating from the site and was appropriate  
7 for the conditions and the waste.

8 16. On August 24, 1983, PWT submitted an addendum to the  
9 closure plan which incorporated EPA's and DOE's comments. On Au-  
10 gust 31, 1983, I met with PWT representatives to go over the final  
11 closure plan and monitoring requirements. I verbally authorized  
12 PWT to begin closure and advised them DOE would issue an Order  
13 approving the closure and post-closure plans and setting out moni-  
14 toring requirements. PWT began construction work for closure in  
15 mid-September and completed the work in mid-October.

16 17. On October 31, 1983, DOE issued Order No. DE 83-468  
17 ("the October 1983 Order"), which approved the closure and post-  
18 closure plans and required a variety of monitoring by PWT. PWT  
19 was required to sample leachate captured in the toe drain, the  
20 lysimeters and three deep aquifer domestic wells downgradient from  
21 the RBT site. Because of the make-up of the PWT waste, we con-  
22 cluded sampling for all parameters identified in 40 CFR §265.92  
23 was unnecessary; and the October 1983 Order identified those para-  
24 meters for which PWT was required to measure.


25 18. During the period closure was underway, I was in regular  
26 contact with PWT and EPA Region 10 personnel. The content of the

1 October 1983 Order was discussed with Region 10; and EPA was pro-  
2 vided a copy of the Order. I was completely satisfied that EPA  
3 concurred fully in DOE's enforcement action and that EPA approved  
4 of the closure and post-closure plans, including the ground water  
5 monitoring requirements.

6 19. DOE viewed the RBT closure as important, primarily for  
7 the reason that it involved the first closure of a land disposal  
8 facility in the State of Washington. We proceeded with care and  
9 made certain that EPA was fully informed of what we were doing and  
10 that EPA's input and concurrence was obtained. Closure of the  
11 site proceeded very rapidly and successful completion attributed  
12 to those parties involved.

13  
14   
15 Eric Egbers

16 SUBSCRIBED AND SWORN to before me this 23rd day of  
17 May, 1986.

18  
19   
20 Notary Public in and for the  
21 State of Washington, residing  
22 at Seattle.